

Memorandum

TO: Appellant
From: Clerk's Office, Administrative Law Court
Re: Filing Fee

If you file more than 3 administrative appeals during a calendar year, you are required to pay a \$25 filing fee pursuant to S.C. Code Ann. §1-23-670, which states in part:

"No filing fee is required in administrative appeals by inmates from final decisions of the Department of Corrections or the Department of Probation, Parole and Pardon Services. However, **if an inmate files three administrative appeals during a calendar year, then each subsequent filing during that year must be accompanied by a twenty-five dollar filing fee.**"

Our records indicate you have filed 5 appeals in this calendar year and therefore the appeal attached is being returned and will not be processed unless it is accompanied by the appropriate fee.

RECEIVED

OCT 09 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Billy Lee Lisenby JR, #200273

Appellant,

vs.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

DOCKET NO. -ALJ-04- -
GRIEVANCE NO.:

Notice is hereby given that Billy Lee Lisenby JR, does hereby appeal the final decision of the South Carolina Department of Corrections dated 6-23-14 and received on Sept. 2, 2014, a copy of which is attached. A general statement of the grounds for appeal is (See S.C. Code Ann. § 1-23-380(A)(6)):

Appellant is appealing a 3-11-14 charge of 817 Pass of Contraband, that led to a 4-8-14 conviction by MRS. A Glidewell. His appeal is based on actual innocence, denied right to call my witness, violation of collateral estoppel because he has been charged with the same SS#'s (3) times, and being charged with a unpublished disciplinary infraction, as a result in the violation of Due process. There is no change in the OP-22.14, "Inmate Disciplinary Policy that states "a inmate cannot have in his possession SS#." Also there is no change that specifically says "no SS#'s". Inmates get date of birth's and SS#'s in everyday through their motion of Discovery and NCIC Reports. Although it was not discussed in Wolff, one of a inmates basic due process right, is that a inmate cannot be punished for an act which is not prohibited by prison regulation unless you have violated state criminal laws. A inmate must have a reasonable opportunity to know what is prohibited, so that he may act accordingly. A charge cannot be hidden or invisible it must be broad, and written in stone, so the inmate will know it exist. Also SCDC has violated it's own policy OP-22.14 section 1.1 which states in part:

Billy Lee Lisenby JR, #200273
Appellant's Name

Billy Lee Lisenby JR
Signed

P.O. Box 205 Lisenby C. I
Mailing Address

Sept. 2, 2014
Dated

Ridgeville, SC. 29472
City, State, Zip Code

CERTIFICATE OF SERVICE

I hereby certify that I, Billy Lee Lisenby (your name), on the 2 day of Sept., 20 14, in Ridgeville (city), South Carolina, served a copy of the foregoing Notice of Appeal on all parties to this matter by depositing the same in the United States Mail, postage paid, or in the mail room of the undersigned's institution and addressed as follows:

Name of person/Agency served: Clark's Office S.C. ALC

Address: 1205 Pendleton St. Suite 224

City, State, Zip Code: Columbia S.C. 29201

Billy Lee Lisenby JR, Billy Lee Lisenby JR
Print your name Sign your name
(See reverse side for instructions)

RECEIVED

OCT 09 2014

SC Court of Appeals

Instructions for filing an appeal of the final agency decision from the South Carolina Department of Corrections:

- 1) You must complete the **Notice of Appeal** on the reverse side of these instructions and mail it to the Administrative Law Court at the following address:

**Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201**

A copy of the Notice of Appeal must also be forwarded to the Office of General Counsel at the Department of Corrections.

- 2) **In order for your case to be processed by the ALC, a copy of the final decision from the Department of Corrections must be attached to the Notice of Appeal.**

NO. 11874751
APR 10 2013

Also the D.H.O kept interrupting me and would not let me read my statement in full, stating "I'm in a hurry and I'm trying to get this over with." She governed his defense. If they felt he used the SS#'s illegally the appropriate charge would be 834 Any act defined as a misdemeanor.

006 4-21-14

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

RECEIVED
STEP 2

INMATE NAME: Billy Lee Lixenby Jr; APR 22 2014
SCDC NUMBER: #200273
INSTITUTION: McConick C.F. LOS INMATE GRIEVANCE
HOUSING UNIT: SMU 21 APR 17 2014
WORK ASSIGNMENT: N/A

Office Use Only
Grievance No. MCCF-0210-14
Code: General _____
Policy _____
Disc. Hear. 2/7 #146
Class: 4/8/14
Date Received 4-17-14
IGC Initials XHH

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): *Please view my step 1 carefully, I was charged with a unpublished charge that is not in OP-22.14. Nothing is S.C.D.C policies says an inmate cannot pass SS #s. Next I was denied my right to call my witness at the hearing, and the D.H.O kept interrupting me and would not let me read my statement in whole. Also I have been found not guilty of the same SS #s twice, this is a violation of collateral estoppel. Evermore I was given an outdated 2009 policy to prepare my appeal, and I have not been orientated. Also I have a mental health history and my counselor wasn't required to prepare a statement.*

Billy Lee Lixenby Jr 4-17-14
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

The documentation provided indicates that the evidence presented was sufficient to support the conviction of Possession of Contraband (817), case #146 on April 8, 2014, under SCDC Policy OP-22.14, Inmate Disciplinary System, dated July 1, 2012, and the sanctions imposed, which included the loss of -0- days accrued good time, were appropriate for the rules violation(s). There was no reason found to warrant a reversal of the Disciplinary Hearing Officer's decision. A review of your appeal revealed that you received forty-eight (48) hour notice prior to the hearing, you were afforded due process rights, as required, and the offense was classified and heard in a timely manner.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

[Signature] 4/23/14
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Billy Lee Lixenby Jr Sept. 2, 2014
Grievant Signature Date IGC Signature Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

INSTRUCTIONS FOR COMPLETING STEP 2 GRIEVANCE FORM

1. Complete form in its entirety, writing only in the space provided for inmate use.
2. State your specific reason for further appeal. Do not submit any new issues for review.
3. Submit this completed form with your original Step 1 attached, to the Institutional Grievance Coordinator within five (5) days of your receipt of the Warden's decision. Do not write in the space provided for the responsible official.
4. The decision rendered by the responsible official exhausts the appeal process of the SCDC Inmate Grievance Procedure.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: <u>Billy Lee Lisenby JR,</u>	Grievance No. <u>MCC10210-14</u>
SCDC NUMBER: <u>#200273</u>	Code: General _____ Policy _____
INSTITUTION: <u>McCormick C.I</u>	Disc. Hear. <input checked="" type="checkbox"/> <u>B17</u>
HOUSING UNIT: <u>SMU 21</u>	Class. _____ PREA _____
WORK ASSIGNMENT: <u>N/A</u>	Date Received <u>4-10-14</u>
	IGC Initials <u>LHH</u> <u>HD 4-8-14 #146</u>

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) I am appealing a 3-11-14 charge of B17 Poss. of Contraband, that led to a 4-8-14 conviction by MRS. A Glidewell. My appeal is based on actual innocence, denied right to call my witness, violation of collateral estoppel because I have been charged with the same SS#s (3) times, and being charged with a unpublished disciplinary infraction, all result in the violation of due process.

There is no charge in the OP-22.14, "Inmate Disciplinary Policy that states 'a inmate cannot have in his possession SS#s.' Also there is no charge that specifically says "no SS#s." Inmates get date of births and SS#s in everyday through their motion of Discovery and NCIC Reports.

Although it was not discussed in Wolff, one of a inmates must basic due process rights is that a inmate cannot be punished for an act which is not prohibited by prison regulations unless you have violated state criminal laws. A inmate must have a reasonable opportunity to know what is prohibited, so that he may act accordingly. A charge cannot be hidden or invisible it must be broad, and written in stone, so the inmate will know it exist.

Also SCDC has violated its own policy OP-22.14 section 1.1 which states in part:

"All SCDC rules and regulations for which an inmate may be disciplined must be in written form describing violation, sanctions, and penalties; must provide adequate notice of the conduct prohibited by SCDC; must be appropriately distributed for inmates to review; and must be reviewed by the responsible authority annually, and updated as necessary."

There is no rule or memorandum, that states inmates cannot poss. SS#s. To charge me with this offends the OP-22.14 Section 1.1. Also the inmates are given a 2009 outdated disciplinary policy in SMU.

I have been at this institution since Feb. 27, 2014, and I have yet to be orientated. This violates [redacted] OP-21.04 Section 28.5 Institutional Orientation which states:

"Inmates will receive institutional orientation within five (5) working days of arrival at the institution of assignment. This orientation will be documented on SCDC Form 18-69, "Certificate of Inmate Orientation." The orientation will include information on: Scheduled meal times, classification, institutional rules.

I have been charged with the same SS#s (3) times. I was charged with the SS#s on 6-8-12 at Kershaw C.I and I was found not guilty on June 20, 2012. I was charged again in January of 2014 at Lee County C.I but it was disposed of before I went to the D.H.U. Each time this charge was dismissed is because I demonstrated

See Attachment #1

ACTION REQUESTED: I ask the the following be made available to the appropriate reviewing authority before deciding my appeal pursuant to OP-22.14 Section 23.4.

I ask my case be overturned.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:


Appeal

Billy Lee Lisenby
Grievant Signature

April 9th 2014
Date

WARDEN'S DECISION AND REASON:

Your grievance, the digital recording and documentation pertaining to your disciplinary hearing for 817, Possession of contraband, case #146 from 4-8-14 has been reviewed. OFC Miskinis, Property Control, stated you did have 4 pages of various names and Social Security Numbers and she did confiscated them. OFC Miskinis stated per Chris Florian, Attorney for SCDC, you are not authorized to have the Social Security Numbers. No errors noted. Your grievance is denied.

 4-16-14
 Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Billy Lee Lyf 4-16-14
 Grievant Signature Date

R. Holmes 4-16-14
 IGC Signature Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing in the Grievance Box within five (5) days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via placement in the Grievance Box.

the SS#s were for legal purposes and not for illegal use. See my Exhibit #1 on the record that I showed the names, dates of births and the SS#s were used to obtain a subpoena from the Judge in my upcoming P.C.R hearing in Chesterfield County case 2013-CP-13-0334. Evenmore I sent request to staff forms to the D.H.U. Requesting that she have the Chesterfield County Clerk of Court present to verify, I used the SS#s for legal purposes. I even sent the Cj the exact request, along with the phone number. to call the clerk of court, and he refused (Yes). The DHU denied me the right to have my witness present and did not state a reason, this violates OP-22.14 Section 15.3, 13.1.2.

OFC. T. Muskinis lied and said I had SS#s for Yolanda Faye Lindsey, Libby Mearns, Phillip Ellis, Thomas Demayne Dixon, Michael White and Steven Gibson, on the paper she confiscated it does not have these peoples SS#s. OFC. T. Muskinis and Al Lewis said that Christopher Florum directed them to write me up. That means they followed an illegal order, allowing him to direct them to write me up for a charge that's not in the S.C.D.C Rules. S.C.D.C Rules and Regulations are governed by S.C. Code of Laws, Sections 24-1-140, and 24-13-210, and it is not just to assume the legislatures intent, or misinterpret it, the Rules must be written in stone.

I have a mental health history and pursuant to OP-22.14 Section 3.2 Review it states in part:
"Note: If the inmate has a mental health issue noted on his/her MEDCLIN screen or is acting in such a manner that indicates a mental health concern, then a copy of the Incident Report must be forwarded to the mental health staff. This referral must be documented on the 19-29A. In these instances, a memorandum from the mental health care professional must be included as an attachment to SCDC Form 19-29A, "Incident Reports" affecting the inmate's mental status and accountability for further actions."

They never obtained a memorandum from my mental health care professional.

Also the D.H.U kept interrupting me and would not let me read my statement in full, stating "Im in a hurry and Im trying to get this over with." She governed my defense. If they felt I used the SS#s illegally the appropriate charge would be 834 Any act defined as a misdemeanor.

Attachment #1

LEGAL MAIL

MCC1-0210-14 Attachment